

UNITED STATES DISTRICT COURT
Eastern District of New York

United States of America

- v -

Kevin RizoPresiding Judge: Joanna Seybert, Senior U.S.D.J.Case No(s): 17-cr-0283-JS-AYSDate: 12/20/2022Time in Court: 2:30 (40 mins.)

MINUTE ENTRY FOR A CRIMINAL PROCEEDING

SEALED PROCEEDING: ☐ Yes ☒ No

I. APPEARANCES:Defendant (# 1): Kevin Rizo☒ Present ☐ Not Present ☒ In Custody ☐ On Bond ☐ SurrenderedCounsel: William Wexler☐ Retained ☐ Federal Defender ☒ CJA ☐

Defendant (#): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐

Defendant (#): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐

Defendant (#): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐Government: Oren GleichCourt Reporter: Mary Ann SteigerPretrial/Probation: Frank Nikolaidis for Gregory Giblin

FTR Time: _____

Interpreter: _____ Language: _____

Courtroom Deputy: Eric L. Russo☐ See Additional Appearances page.**II. PROCEEDINGS HELD:**☐ Arraignment☐ Evidentiary Hearing☐ Plea Hearing☐ Bond Hearing☐ Fatico Hearing☒ Sentencing/Re-Sentencing☐ Curcio Hearing☐ Initial Appearance☐ Status/Pre-Trial Conference☐ Detention Hearing☐ Motion Hearing☐ Other: _____**III. PROCEEDINGS SUMMARY:**☐ Arraignment held regarding _____.☐ Defendant _____ initial appearance before this Court.☐ Defendant _____ waived Indictment.☐ Defendant _____ waived the public reading of the charging instrument.☐ The Court publicly read the charges outlined in the charging instrument.☐ Defendant _____ entered a plea of not guilty as to all counts of the charging instrument.☐ The Government was advised of its obligation under Rule 5(f) of the F.R.Cr.P. and the Due Process Protections Act.☐ Defendant _____ waived Speedy Trial from _____.☐ Defendant _____ did not waive Speedy Trial.☐ Defendant _____ Speedy Trial was waived from _____ by order of the Court.☐ The Court deemed this case complex.☐ See Section V for additional details and/or rulings.

- ☐ Curcio Hearing held.
- ☐ The parties presented their oral arguments to the Court.
 - ☐ The defendant was informed of the potential dangers arising from any conflicts of interest.
 - ☐ The defendant understood and waived any potential conflicts of interest and wishes to proceed with current counsel.
 - ☐ The defendant wishes to relieve current counsel and retain new counsel or have new counsel appointed by the Court.
 - ☐ See Section V for additional details and/or rulings.
- ☐ Status/Pre-Trial Conference held regarding _____.
- ☐ This was an initial appearance before this Court by Defendant _____.
 - ☐ The parties advised the Court of the status of the case.
 - ☐ Defendant _____ waived Speedy Trial from _____.
 - ☐ Defendant _____ did not waive Speedy Trial.
 - ☐ Defendant _____ Speedy Trial was waived from _____ by order of the Court.
 - ☐ The Court deemed this case complex.
 - ☐ The following briefing schedule was set as to _____:
 - ☐ _____ due by: _____.
 - ☐ _____ due by: _____.
 - ☐ _____ due by: _____.
 - ☐ _____ due by: _____.
 - ☐ The parties were directed to file a proposed briefing schedule for court approval on or before _____.
 - ☐ The parties agreed to file fully briefed motion(s) on or before _____.
 - ☐ The Court respectively refers the motion(s) to Magistrate Judge _____:
 - ☐ for purposes of submitting a Report and Recommendation for this Court's consideration.
 - ☐ to rule on the motion(s) in its entirety.
 - ☐ The parties were directed to file and/or exchange the following jury selection/pre-trial documents:
 - ☐ Exhibits and witness list by: _____.
 - ☐ Proposed voir dire and/or case summary by: _____.
 - ☐ Proposed request to charge and verdict sheet by: _____.
 - ☐ Government's 3500 material by: _____.
 - ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order.
 - ☐ See Section V for additional details and/or rulings.
- ☐ Evidentiary Hearing/Motion Hearing held regarding _____.
- ☐ The parties presented their oral arguments to the Court.
 - ☐ Witness(es) were called ☐ for the Government; ☐ for the defendant(s).
 - ☐ Exhibits were entered into evidence.
 - ☐ The Court made the following ruling(s):
 - ☐ Motion granted as to _____.
 - ☐ Motion denied as to _____.
 - ☐ Motion granted, in part, and denied, in part, as to _____.
 - ☐ Decision reserved on _____.
 - ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order.
 - ☐ See Section V for additional details and/or rulings.
- ☐ Plea Hearing held.
- ☐ The defendant was informed of the constitutional rights being waived and the consequences of pleading guilty.
 - ☐ The defendant withdrew previously entered not guilty plea and entered a plea of guilty to count(s) _____.
 - ☐ Court found that there is a factual basis for the plea and accepted the defendant's plea of guilty.
 - ☐ An Order of Forfeiture was executed.
 - ☐ The Conviction Notification Form was executed and sent to the U.S. Probation Department.
 - ☐ The parties waived the preparation of the Presentence Investigation Report.
 - ☐ See Section V for additional details and/or rulings.

- ☐ Fatico Hearing held.
- ☐ The parties presented their oral arguments to the Court.
 - ☐ Witness(es) were called ☐ for the Government; ☐ for the defendant(s).
 - ☐ Exhibits were entered into evidence.
 - ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
 - ☐ Sentencing was held immediately following the hearing.
 - ☐ See Section V for additional details and/or rulings.
- ☒ Sentencing/Re-Sentencing held as to count(s) **five (5) of the sixteen (16) count Indictment**.
- ☒ Statements were heard from ☒ defense counsel; ☒ the defendant; ☒ the Government; ☒ the victim(s).
 - ☒ The defendant was sentenced to be imprisoned for a total term of **seventeen (17) years**.
 - ☒ Upon release, the defendant shall be on Supervised Release for a total term of **five (5) years**.
 - ☒ The defendant shall comply with all standard conditions of supervision, to be outlined in the judgment.
 - ☒ The defendant shall comply with the special conditions of supervision, outlined in the sentencing recommendation.
 - ☐ The Court did not impose a term of Supervised Release.
 - ☐ The defendant was sentenced to Probation for a total term of _____.
 - ☐ The defendant shall comply with all standard conditions of supervision, to be outlined in the judgment.
 - ☐ The defendant shall comply with the special conditions of supervision, outlined in the sentencing recommendation.
 - ☒ The defendant must pay the following criminal monetary penalties:
 - ☐ Restitution in the amount of \$ _____.
 - ☐ A fine in the amount of \$ _____.
 - ☒ A Special Assessment fine in the amount of \$ **100.00**.
 - ☐ The defendant must pay interest on the restitution and/or fine ordered of more than \$2,500.00.
 - ☐ The Court determined that the defendant does not have the ability to pay interest and it was ordered that:
 - ☐ the interest requirement is waived.
 - ☐ the interest requirement is modified as stated on the record.
 - ☐ Interest on any of the criminal monetary penalties was not ordered or not applicable.
 - ☒ Restitution:
 - ☒ was not ordered or not applicable.
 - ☐ was paid in full.
 - ☒ A fine:
 - ☒ was not ordered or not applicable.
 - ☐ was paid in full.
 - ☐ The determination of restitution and/or a fine was deferred pending further proceedings.
 - ☐ All other conditions shall remain in effect as outlined in the previous judgment(s) dated _____.
 - ☐ The Order of Forfeiture dated _____ was adopted as the Final Order of Forfeiture.
 - ☐ A Final Order of Forfeiture was executed.
 - ☒ The defendant:
 - ☐ was advised of, or will be advised of, any right to appeal by counsel.
 - ☒ has waived the right to appeal at the plea hearing.
 - ☒ All open counts in the charging instrument(s) were dismissed on the motion of the United States.
 - ☒ See Section V for additional details and/or rulings.

IV. RULINGS MADE REGARDING DEFENDANT RELEASE STATUS:

- ☐ Bond Hearing/Detention Hearing held.
- ☐ Defendant _____ did not present a bond application to the Court.
 - ☐ An Order of Detention was executed as to Defendant _____.
 - ☐ An Order Scheduling a Detention Hearing was executed as to Defendant _____.
 - ☐ The bond application/modification was granted as to Defendant _____.
 - ☐ An Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ The conditions of release were modified as stated on the record as to Defendant _____.
 - ☐ An amended Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ The bond application/modification was denied as to Defendant _____.
 - ☐ An Order of Detention was executed as to Defendant _____.
 - ☐ The Government moved for immediate detention of Defendant _____.
 - ☐ The motion was ☐ granted; ☐ denied; ☐ granted, in part, and denied, in part.
 - ☐ An Arrest Warrant was executed as to Defendant _____.
 - ☐ An Order of Detention was executed as to Defendant _____.
 - ☐ An amended Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ The decision regarding the bond or detention application was reserved.
 - ☐ An Arrest Warrant was executed as to Defendant _____.
 - ☐ An Order Scheduling a Detention Hearing was executed as to Defendant _____.
 - ☐ A temporary Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ See Section V for additional details and/or rulings.
- ☒ Defendant 1 remain(s) in custody.
- ☐ A Medical Evaluation Order was executed as to Defendant _____.
- ☐ Defendant _____ remain(s) on bond.
- ☐ The defendant, being sentenced to term of imprisonment, shall be immediately remanded to the custody of the U.S. Marshals Service and/or the Federal Bureau of Prisons.
- ☐ The defendant, being sentenced to a term of imprisonment, shall surrender for the service of the sentence before 2:00 PM on _____ at the institution designated by the Federal Bureau of Prisons. The defendant will remain on bond, under the supervision of Pretrial Services, until the surrender date. Motions to extend of this surrender date must be made at least a forty-five (45) days prior to the surrender date.
- ☐ The U.S. Marshals Voluntary Surrender form was executed.
- ☐ The defendant, being sentenced to a term of probation, was directed to report to the U.S. Probation Department. The defendant will remain on bond, and under the supervision of the U.S. Probation Department, with the conditions set forth during sentencing until the completion of the ordered term of probation.
- ☐ The defendant, being sentenced to time served, shall be released forthwith pending the appropriate release procedures by the U.S. Marshals Service, Federal Bureau of Prisons, and/or the facility in which the defendant resides.
- ☐ A Time Served Order was executed and submitted to the U.S. Marshals Service.
 - ☐ The defendant was directed to report to the U.S. Probation Department upon release. The defendant will be under the supervision of the U.S. Probation Department, with the conditions set forth during sentencing until the completion of the ordered term of Supervised Release.

V. OTHER RULINGS MADE DURING THE PROCEEDINGS:

☐ The record of this proceeding was deemed sealed. Transcripts of this proceeding can be made available to the Court, the defendant(s), defense counsel, and the Government only.

☒ Other:

- The Court recommends to the Bureau of Prisons that the defendant be housed in either FCI Danbury, FCI Fort Dix, or any other facility in the New York/Metropolitan area for the service of his sentence.

VI. FURTHER PROCEEDINGS SET:

☒ No further conferences or hearings have been set at this time.

☐ Bond Hearing: _____ at _____ before Judge _____, as to Defendant _____.

☐ Curcio Hearing: _____ at _____ before Judge _____, as to Defendant _____.

☐ Detention Hearing: _____ at _____ before Judge _____, as to Defendant _____.

☐ Evidentiary Hearing: _____ at _____ before Judge _____, as to Defendant _____.

☐ Fatico Hearing: _____ at _____ before Judge _____, as to Defendant _____.

☐ Jury Selection: _____ at _____ before Judge _____, as to Defendant _____.

☐ Jury Trial: _____ at _____ before Judge _____, as to Defendant _____.

☐ Motion Hearing: _____ at _____ before Judge _____, as to Defendant _____.

☐ Plea Hearing: _____ at _____ before Judge _____, as to Defendant _____.

☐ Preliminary Hearing: _____ at _____ before Judge _____, as to Defendant _____.

☐ Sentencing/Re-Sentencing: _____ at _____ before Judge _____, as to Defendant _____.

☐ Parties are directed to file their sentencing memorandums by _____.

☐ Status/Pre-Trial Conference: _____ at _____ before Judge _____, as to Defendant _____.

☐ Other instructions regarding the proceedings set: